

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, JANUARY 8, 2010

DEPARTMENT OF ENVIRONMENTAL QUALITY
629 EAST MAIN STREET
RICHMOND, VIRGINIA

Board Members Present:

Richard D. Langford

Vivian E. Thomson

Randolph L. Gordon

Manning "Chip" Gasch, Jr.

Bruce C. Buckheit

Hullihen W. Moore

Sterling E. Rives, III

Department of Environmental Quality:

David K. Paylor

Cindy M. Berndt

Attorney General's Office:

Kerri Nicholas, Assistant Attorney General

The meeting was convened at 9:50 a.m., recessed at 11:35 a.m., reconvened at 11:50, recessed at 1:15 p.m., reconvened at 2:12 p.m., and adjourned at 4:00 p.m.

Minute No. 1 - Introduction of New Board Member: Mr. Manning "Chip" Gasch, Jr., was introduced as a new member filling the unexpired term of Marina Phillips.

Minute No. 2 - Fugitive Dust Petition: Mr. Richard D. Langford advised the Board, that a request had been received from the Sierra Club requesting an extension of the public comment period on the petition for rulemaking concerning fugitive dust.

The Board, on a motion by Ms. Thomson, unanimously approved a 30-day extension of the public comment period on the rulemaking petition concerning fugitive dust regulation.

Minute No. 3 - State Advisory Board on Air Pollution - 2010 Projects: The Board offered the following ideas for the State Advisory Board on Air Pollution to consider as projects for the upcoming year:

1. Review the climate change report and identify for the Board and others the top 5 or 10 air issues that can be accomplished in the near term.
2. Review Section 165(a)(2) of the Clean Air Act regarding the requirement for an examination of available alternatives and develop a framework for how such an analysis could be performed.

Minute No. 4 - Board Procedures: Mr. Sterling E. Rives, III, led a discussion on the draft "Standing Rules and Procedures of the Virginia Air Pollution Control Board" to receive input from the Board.

Minute No. 5 - Election of Officers: Ms. Vivian E. Thomson made a motion to have an election of officers and to seat the new officers at the close of the meeting. The motion carried on a 4 to 3 vote (Moore, Thomson, Buckheit and Rives voted aye and Langford, Gordon and Gasch voted no). Ms. Thomson nominated Mr. Moore and Dr. Gordon nominated Mr. Langford to serve as Chair of the Board. Mr. Moore received 4 votes (Thomson, Buckheit, Rives and Moore) and was elected Chair. Ms. Thomson nominated Mr. Rives and Dr. Gordon nominated Mr. Langford to serve as Vice-Chair. Mr. Rives received 4 votes (Thomson, Buckheit, Moore and Rives) and was elected Vice-Chair.

Minute No. 6 - Royal Fumigation, Suffolk: Mr. Michael Dowd, Director, Air Division, provided a briefing on the Royal Fumigation Facility in Suffolk in response to a request from the Board at the November 2009 meeting. He provided the Board with the history of the facility and advised the Board that a permit application has been received and will be processed as a MACT permit under Section 112(g) of the Clean Air Act. Mr. Dowd also informed the Board that a Notice of Violation had been issued and that site monitoring would commence in the near future.

The Board received the report and asked for a status report at the next meeting.

Minute No. 7 - Particulates in Roda, Virginia: Ms. Crystal Bayzk of the Southwest Regional Office advised the Board that the Memorandum of Agreement with the Department of Mines, Minerals and Energy had been signed and a letter had been sent to DMME regarding what constitutes reasonable measures.

Mr. Buckheit moved that the Board direct the Department to develop a draft permit for off-site fugitive dust emissions in the Roda area. After discussion, Mr. Buckheit withdrew the motion. Mr. Rives then moved that the Board direct staff to provide a status report at next meeting; request an informal opinion from the Attorney General's Office on the authority of the Board and DMME to have measures for regulating dust off-site; direct staff to work with DMME to specify what reasonable measures in the Roda area would be, including whether additional on-site measures are necessary if no authority to regulate fugitive dust off-site; and direct staff to advise DMME of the Board's request that they expedite their process for including reasonable measures into the permits for the facilities around Roda. The motion was seconded by Ms. Thomson. Mr. Langford moved that the third item be stricken from the motion. Dr. Gordon seconded. The amendment failed on a 3 to 4 vote (Langford, Gordon and Gasch voted aye and Thomson, Moore, Buckheit and Rives voted no). The Board then adopted the motion by a 4 to 3 vote (Thomson, Moore, Buckheit and Rives voted aye and Langford, Gordon and Gasch voted no).

Minute No. 8 - Air Division Director's Report: Mr. Michael Dowd, Director, Air Division, provided an ozone update including 2009 data, high ozone day trends and EPA activity to revise the ozone standard.

Ms. Doris McLeod presented a report on the interstate transport of air pollution under Section 110(a)(2)(D) of the Clean Air Act.

Mr. Dowd provided the Board with an update on the court decision invalidating the regulation that imposed NOx emissions caps based on CAIR allocation in nonattainment areas. He advised the Board that the regulations would need to be amended to conform to the Court's decision and that the decision would impact Virginia's State Implementation Plan (SIP). He explained that the SIP included the NOx reductions at the Mirant Potomac River Generating Station as a control strategy and the Court's decision would create a need for Virginia to make the reductions federally enforceable by other means such as through a state operating permit.

Mr. Dowd provided the Board with the current status of the Environmental Protection Agency's actions related to green house gases (GHG); including the effect and impact of the final GHG tailpipe emissions standards rule, the Tailoring Rule, and next steps.

Finally, Mr. Dowd advised the Board that the status of the permit application for the Old Dominion Electric Cooperative Cyprus Creek Power Station was unchanged.

The Board received the reports.

Minute No. 9 - Recognition of Richard D. Langford Service as Chair: The Board on a motion by Mr. Moore, by a vote of 6 to 0 (Langford abstained) directed that a plaque be prepared to thank Mr. Langford for his service to the Board as Chair.

Cindy M. Berndt